

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2256 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

DEEPAK LALIT CHAVDA

Appearance:

MR HARDIK C RAWAL for Petitioner

DS AFF.NOT FILED (N) for Respondent No. 1, 2

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 18/08/1999

ORAL JUDGEMENT

1. Learned advocate, Mr. Hardik Rawal, seeks permission to delete respondent No.2 from the record of First Appeal. Permission is granted. Amendment be carried out forthwith.

2. The appellant, by filing this appeal under Section 173 of the Motor Vehicles Act, 1988, has challenged the judgment and award dated January 29, 1999

passed by the Motor Accident Claims Tribunal, (Aux.), Rajkot, in M.A.C. Petition No.444 of 1992, in so far as it relates to award of interest at the rate of 15% per annum by the Tribunal in favour of respondent No.1-original claimant.

2. Respondent No.1-original claimant sustained injuries due to rash and negligent driving of the S.T. Bus belonging to the appellant, bearing RTO Registration No.GJ-I-Z-897, by the driver (original opponent No.2), as a result of which, respondent No.1, who was riding a scooter, was knocked down by the Bus, and he sustained injuries in various parts of his body. Respondent No.1 was admitted in the Government Hospital, at Rajkot. X-ray taken at the hospital revealed that there was fracture of 5th bone of spinal cord. After the discharge from the Government Hospital, Rajkot, respondent No.1 had taken treatment at the hospital of Dr. Maheshkumar Maru. Dr. Maheshkumar Maru issued disability certificate assessing permanent partial disability suffered by respondent No.1 at 10%. Respondent No.1-original claimant filed M.A.C. Petition No.454 of 1992 against the appellant and original opponent No.2 (driver of the S.T. Bus) to recover compensation to the tune of Rs.1 lakh.

4. The claim petition was opposed by the appellant and respondent No.2 by filing their written statements, inter alia, contending that the accident has not taken place due to negligent of the driver of the S.T. Bus and the amount claimed by respondent No.1 was excessive and, therefore, the application be dismissed with costs. The Tribunal framed issues at Exh.11. The Tribunal, on over all appreciation of oral as well as documentary evidence, awarded a sum of Rs.57,600/- as compensation for the injuries sustained by respondent No.1 in the vehicular accident, with interest at the rate of 15% per annum to be recovered from the appellants and original opponent No.2 (driver of the bus). The appellant has filed this appeal challenging the judgment and award of the Tribunal qua award of interest in favour of the original claimant on the amount of compensation at the rate of 15% per annum.

6. The Division Bench of this Court (Coram: J.M. Panchal & M.C. Patel, JJ.), by judgment and order dated October 15, 1998, rendered in First Appeal No.1110 of 1998, held that, in the claim petition under the Motor Vehicles Act, 1988, the interest should be awarded at the rate of 12% per annum from the date of filing of petition till realisation. This Court has also taken the same view in number of cases following the aforesaid decision of the Division Bench of this Court as well as the

decision of the Apex Court in the case of Muthaiah Sekhar vs. Nesamony TPT Corporation Ltd, reported in 1998 (7) SCC 39. In view of the settled legal principles, the interest awarded by the Tribunal at the rate of 15% deserves to be quashed and set aside.

7. For the foregoing reasons, the appeal partly succeeds. Respondent No.1-original claimant shall be entitled to interest at the rate of 12% per annum on the amount of compensation from the date of application till realisation. The award accordingly stands modified. There shall be no order as to costs.

(swamy)